

**IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF PENNSYLVANIA**

JILL STEIN, et al.,

Plaintiffs,

v.

KATHY BOOCKVAR, in her official
capacity as Secretary of the Commonwealth;
and JONATHAN MARKS, in his official
capacity as Commissioner of the Bureau of
Commissions, Elections, and Legislation,

Defendants.

CIVIL ACTION NO. 16-CV-6287 (PD)

PROPOSED ORDER

AND NOW, this ____ day of _____, 20__, upon consideration of the Motion by Election Systems & Software, LLC (“ES&S”) for Leave to File a Memorandum in Opposition to Plaintiffs’ Proposed Conclusions of Law (ECF 180) it is hereby ORDERED that the Motion for Leave is GRANTED. IT IS FURTHER ORDERED that the Clerk shall docket the Memorandum attached as Exhibit A to the Motion for Leave, and that the Memorandum shall be deemed filed as of the date of this Order.

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**AMICUS ELECTION SYSTEMS & SOFTWARE, LLC’S MOTION FOR LEAVE TO
FILE MEMORANDUM IN OPPOSITION TO PLAINTIFFS’
PROPOSED CONCLUSIONS OF LAW**

Amicus Election Systems & Software, LLC (“ES&S”) moves for leave to file a concise memorandum, in the form attached as Exhibit A, in opposition to Plaintiffs’ Proposed Conclusions of Law. In support of its motion, ES&S relies on the attached memorandum of law.

WHEREFORE, ES&S respectfully requests that the Court grant ES&S leave to file the proposed memorandum attached as Exhibit A.

Respectfully submitted,

DUANE MORRIS LLP

Dated: March 26, 2020

/s/ Alan C. Kessler

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**MEMORANDUM OF LAW IN SUPPORT OF ELECTION SYSTEMS & SOFTWARE,
LLC’S MOTION FOR LEAVE TO FILE A MEMORANDUM IN OPPOSITION TO
PLAINTIFFS’ PROPOSED CONCLUSIONS OF LAW**

ES&S’s concise memorandum is limited to rebutting statements Plaintiffs made directly about ES&S, about its role as amicus, and about inferences Plaintiffs request be drawn about ES&S counsel’s attendance at the February 2020 hearing. Plaintiffs made such statements for the first time in their proposed conclusions of law, and ES&S has not had an opportunity to address them. *Cf. Utica Mut. Ins. Co. v. Cincinnati Ins. Co.*, 361 F. Supp. 3d 451, 456 n.2 (E.D. Pa. 2019) (granting leave to file sur-reply addressing “new information” that opposing party had proffered for the first time in its reply brief). The proposed memorandum will help correct and clarify the record upon which the Court will decide Plaintiffs’ Motion.

Respectfully submitted,

DUANE MORRIS LLP

Dated: March 26, 2020

/s/ Alan C. Kessler

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CERTIFICATE OF SERVICE

I hereby certify that on March 26, 2020, I caused the foregoing to be served via ECF on the parties named below.

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/s/ Luke P. McLoughlin

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